

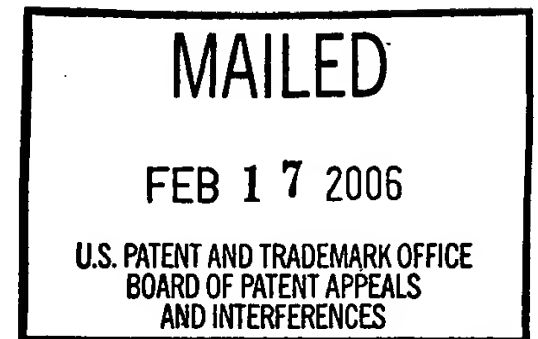
The opinion in support of the decision being entered today was not written for publication in a law journal and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte HOWARD A. KINGSFORD

Application No. 09/440,384.



ORDER RETURNING UNDOCKETED APPEAL TO THE EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on January 30, 2006. A review of the Image File Wrapper (IFW) application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

INFORMATION DISCLOSURE STATEMENT

Appellant filed an Information Disclosure Statement (IDS) on April 10, 2002. A review of the application reveals that the examiner did not properly consider the IDS filed on April 10, 2002.

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According to the Manual of Patent Examining Procedure (MPEP)

§ 609(C)(2) (Rev. 1, Feb. 2000):

Examiner must consider all citations submitted in conformance with the rules and this section, and their initials when placed adjacent to the considered citations on the list or in the boxes provided on a form PTO-1449 . . . Those citations not considered by the examiner will have a line drawn through the citation and any citations considered will have the examiner's initials adjacent thereto . . .

. . . .

. . . . If a statement fails to comply with requirements as discussed in this section for an item of information, a line should be drawn through the citation to show that it has not been considered. The other items of information listed that do comply with the rules and this section will be considered by the examiner and will be appropriately initialed [emphasis added].

It is clear from the record that the Information Disclosure Statement was not properly considered by the examiner.

EXAMINER'S ANSWER

Further review of the IFW application reveals that the Answer, mailed November 3, 2005, is deemed non-complaint with the new rules set forth in 37 CFR § 41.39 effective September 13, 2004. The IFW application reveals that the following content is missing from the Examiner's Answer in the order and with the context stated in the Rules:

Section "(9) Evidence Relied Upon," fails to list the relevant references applied in the rejections on appeal.

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Correction is required pertaining to the headings and content required in the Examiner's Answer.

Accordingly, it is

ORDERED that the application is remanded to the examiner:

- (1) for proper consideration of the Information Disclosure Statement filed April 10, 2002, by either initialing all of the references, or by drawing a line through the references not considered;
- (2) notification to appellant in writing of consideration;
- (3) submit a revised Examiner's Answer in accordance with the new rules effective September 13, 2004; and
- (4) for such further action as may be appropriate.

BOARD OF PATENT APPEALS
AND INTERFERENCES

By: 

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